SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1961

No. 10

ALDEN WHITMAN, PETITIONER,

vs.

UNITED STATES

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

INDEX

	Original	Print
Proceedings in the United States Court of Appeals for the District of Columbia Circuit		
Opinion, Per Curiam	1	1
Judgment	4	3
Clerk's certificate (omitted in printing)	5	4
Order allowing certiorari	6	4
Order granting motion to dispense with the printing of the record	7	5

RECORD PRESS, PRINTERS, NEW YORK, N. Y., NOVEMBER 14, 1961

[fol. 1] [File endorsement omitted]

IN UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 15,416

ALDEN WHITMAN, APPELLANT

v.

UNITED STATES OF AMERICA, APPELLEE

Appeal from the United States District Court for the District of Columbia

Messrs. Thurman Arnold and *Gerhard P. Van Arkel*, with whom *Mr. George Kaufmann* was on the brief, for appellant. *Mr. David I. Shapiro* also entered an appearance for appellant.

Mr. William Hitz, Assistant United States Attorney, with whom *Messrs. Oliver Gasch*, United States Attorney, *Carl W. Belcher*, Assistant United States Attorney, and *Miss Doris H. Spangenburg*, Assistant United States Attorney, were on the brief, for appellee.

Before WILBUR K. MILLER, WASHINGTON and BASTIAN, Circuit Judges.

OPINION—Decided July 7, 1960

PER CURIAM: Alden Whitman, a copy reader on the New York Times, was found guilty on all 19 counts of an indictment charging him with refusing to answer cer- [fol. 2] tain questions put to him by the Senate Internal Security Subcommittee,[1] and was given a suspended

[1] Violations of 2 U. S. C. § 192, which is:

"Every person who having been summoned as a witness by the authority of either House of Congress to give testimony or to produce papers upon any matter under inquiry

sentence of imprisonment for six months and a fine of $500. He appeals.

Whitman presents five arguments for reversal: (1) The scope of the topic under inquiry by the Subcommittee was too broad and indefinite to illuminate the pertinency of the questions in the indictment; (2) the questions in the indictment are not pertinent to any authorized inquiry since they concern Communist Party associations during a remote period when the conspiratorial character of the Party was obscure; (3) any question about associates in the Communist Party, as distinguished from one's own Party activities, lacks pertinency; (4) even if the questions were pertinent, Whitman's personal interest, under the First Amendment, in following the dictates of his conscience overbalanced the interest of Congress in exposure of Communist Party members; and (5) the Subcommittee's inquiry was devoted to investigating the New York Times, and thus invaded the field of freedom of the press.

Insofar as the subject under inquiry is concerned, the questioning of Whitman was substantially similar to that [fol. 3] of the appellants in No. 13,737, *Shelton* v. *United States*, and No. 13,925, *Price* v. *United States*, both decided by this court on June 18, 1960. In light of those decisions, the claims covered by the first and fifth contentions must be rejected. And in view of the decision in No. 13,694, *Deutch* v. *United States*, also decided on June 18, 1960, the third and fourth contentions cannot be a basis for reversal.

As to appellant's second claim, we note that at least half of the indictment questions, those in counts one through eight, referred to the Communist Party in the

---

before either House, or any joint committee established by a joint or concurrent resolution of the two Houses of Congress, or any committee of either House of Congress, willfully makes default, or who, having appeared, refuses to answer any question pertinent to the question under inquiry, shall be deemed guilty of a misdemeanor, punishable by a fine of not more than $1,000 nor less than $100 and imprisonment in a common jail for not less than one month nor more than twelve months. (R. S. § 102; June 22, 1938, ch. 594, 52 Stat. 942.)"

post World War II period prior to 1949. It was at that time that Whitman himself, according to his own offer of testimony at trial, became especially conscious of the questionable character of the Party. Moreover, one of the questions—"Did you tell anyone you were quitting the Party?"—clearly pertained to the mechanics of Party membership at a time not so distant as to be irrelevant to possible present practices. Given the presently considered conspiratorial nature of the Party, a common belief of which Whitman does not claim ignorance, it would seem that the questions in counts one through eight were clearly pertinent to an investigation of subversive activities as manifested by the organization of members of the press into Communist Party cells in the period following World War II, and such an inquiry was not without relevance to Party activities in 1956, when the Subcommittee questioned Whitman.

Affirmed.

[fol. 4] [File endorsement omitted]

IN UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

September Term, 1959.

No. 15,416

Criminal 1213-56

ALDEN WHITMAN, Appellant,

v.

UNITED STATES OF AMERICA, Appellee.

Appeal from the United States District Court
for the District of Columbia

Before: Wilbur K. Miller, Washington and Bastian, Circuit Judges.

JUDGMENT—July 7, 1960

This cause came on to be heard on the record on appeal from the United States District Court for the District of Columbia, and was argued by counsel.

On consideration whereof It is ordered and adjudged by this Court that the judgment of the District Court appealed from in this cause be, and it is hereby, affirmed.

Per Curiam.

Dated: July 7, 1960

[fol. 5] Clerk's Certificate to foregoing transcript (omitted in printing).

[fol. 6]

SUPREME COURT OF THE UNITED STATES

No. 300—October Term, 1960

ALDEN WHITMAN, Petitioner,

vs.

UNITED STATES

ORDER ALLOWING CERTIORARI—June 19, 1961

The petition herein for a writ of certiorari to the United States Court of Appeals for the District of Columbia Circuit is granted. The case is transferred to the summary calendar and set for argument immediately following No. 239.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

Mr. Justice Brennan took no part in the consideration or decision of this application.

[fol. 7]

SUPREME COURT OF THE UNITED STATES

No. 10—October Term, 1961

ALDEN WHITMAN, Petitioner,

vs.

UNITED STATES

ORDER GRANTING MOTION TO DISPENSE WITH PRINTING OF RECORD—October 9, 1961

On Consideration of the motion of petitioner to dispense with printing the record,

It Is Ordered by this Court that the said motion be, and the same is hereby, granted.

Mr. Justice Brennan took no part in the consideration or decision of this motion.